

REMARKS / ARGUMENTS

Claims 1, 5, 6, 8, 11-13, 15, and 16 has been amended; Claims 7 and 14 have been canceled, without prejudice or disclaimer; and new Claims 17-22 have been added; therefore, Claims 1-6, 8-13, and 15-22 are pending. Applicants have carefully considered the application in view of the Examiner's action and, in light of the foregoing amendments and the following remarks, respectfully requests reconsideration and full allowance of all pending claims.

Claims 6, 11, 13, and 16 stand objected to because of certain informalities. Claims 15 and 16 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 5 and 12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In response, Applicants have amended Claims 5, 6, 11-13, 15, and 16 to overcome the rejection and objection of the identified claims, without adding any new matter to the application as originally filed. More specifically, with respect to Claims 5 and 12, support may be found, for example, in Figure 3f and corresponding paragraph [0053] of the specification as originally filed and as understood upon a reading thereof by a person having ordinary skill in the art, thereby adding no new matter to the application. In light of the foregoing, Applicants respectfully request the withdrawal of the objection of Claims 6, 11, 13, and 16, the withdrawal of rejection of Claims 15 and 16 under 35 U.S.C. § 112, first paragraph, and the withdrawal of the rejection of Claims 5 and 12 under 35 U.S.C. § 112, second paragraph.

Claims 1-5 and 8-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. US 2003/0007459 A1 to Yi et al. (hereinafter "Yi"). Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yi in view of U.S. Patent No. 5,253,253 to Brame et al. (hereinafter "Brame"). Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yi in view of U.S. Patent Application Publication No. 2002/0159410 A1 to Odenwalder (hereinafter "Odenwalder"). In response, Applicants respectfully traverse the rejections for the following reasons.

First, the Examiner has asserted that the arguments set forth by Applicants in the response dated November 5, 2007, are not persuasive because "N" is not defined and could, for

example, be zero, in which case *Yi* would allegedly meet the claimed limitations. If, in fact, *N* were equal to zero, then it is submitted that Claim 1 would read, in pertinent part, as follows:

“in response to a signal from said RLC layer, said signal being indicative of discard of said SDU, ... causing said RRC layer to submit to said RLC layer a failure response message indicative that said process indicated by the information of the SDU has failed.”

Yi only describes the RRC in any detail at paragraph [0017] wherein *Yi* states: “the RRC has functions of setting, maintaining and cancelling of a radio bearer and allotting, repositioning or cancelling of radio resource used for radio resource access”. If it were conceded, for the sake of argument, that one of these functions were equivalent to the RRC layer submitting a failure response message, then *Yi* would still fail to teach or suggest performing such function “in response to a signal from said RLC layer, said signal being indicative of discard of an SDU” as recited above in Applicants’ original independent Claim 1.

Similarly, if *N*=0, independent Claim 8 would read, in pertinent part, as follows:

“in response to an indication that the timing process has reached a predetermined timeout, ... causing said RRC layer to submit to said RLC layer a failure response message indicative that said process indicated by the information of the SDU has failed.”

Similarly to Claim 1, with respect to Claim 8, *Yi* fails to teach or even suggest performing any of the above functions, arguably equivalent to the RRC layer submitting a failure response message, “in response to an indication that the timing process has reached a predetermined timeout” as recited in Applicants’ original independent Claim 8.

Still further, while *Yi* arguably teaches an RLC transmitting (and retransmitting) SDUs over a network, *Yi* fails to teach or suggest submitting (and resubmitting) an SDU from the RRC to the RLC, as recited by Applicants in independent Claims 1 and 8. This constitutes a fundamental distinction between *Yi* and the invention claimed by Applicants. Indeed, because *Yi* is concerned with retransmission by the RLC, and not resubmission by the RRC, it is apparent that *Yi* actually teaches away from Applicants’ invention.

In view of the foregoing, it is apparent that *Yi* fails to teach, suggest, or render obvious the unique combination now recited in independent Claims 1 and 8. It is therefore respectfully

submitted that Claims 1 and 8 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by *Yi* be withdrawn.

Claims 2-6, 9-13, 15, and 16 depend from and further limit independent Claims 1 and 8 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejections of dependent Claims 2-6, 9-13, 15, and 16 be withdrawn, as well.

New Claims 17-22 are similar to Claims 1, 2, 4-6, and 15, respectively, but for independent Claim 17 further reciting that N is a number greater than zero, as supported, for example, by Figs. 3a and 3b of the specification as originally filed, thereby adding no new matter to the application. Because Claim 17 further limits Claim 1 in a patentable sense, and Claims 18-22 depend from and further limit independent Claim 17 in a patentable sense, it is respectfully submitted that, for this reason and the reasons set forth above, Claims 17-22 are also deemed to be in condition for allowance.

Applicants do not believe any fees are due in connection with the filing of this paper; however, in the event that any other fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper, to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P.

Applicants have reviewed the prior art made of record and not relied on, and has concluded that this art does not prejudice the patentability of the invention as defined by the present claims. For this reason and the reason that they have not been applied against Applicants' claims, no further discussion of them is deemed necessary.

Applicants have now made an earnest attempt to place this application in condition for allowance. Therefore, Applicants respectfully request, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-6, 8-13, and 15-22 so that the application may be passed to issue.

Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

SCHEEF & STONE, L.L.P.

/Jack D. Stone, Jr./

Jack D. Stone, Jr.
Reg. No. 38,324

5956 Sherry Lane, Suite 1400
Dallas, TX 75225
Telephone: (214) 706-4207
Fax: (214) 706-4242
jack.stone@scheefandstone.com